

TOP SECRET//COMINT//NOFORN NATIONAL SECURITY AGENCY CENTRAL SECURITY SERVICE

FORT GEORGE G. MEADE, MARYLAND 20755-6000

30 November 2010

MEMORANDUM FOR THE CHAIRMAN, INTELLIGENCE OVERSIGHT BOARD

THRU: Assistant to the Secretary of Defense (Intelligence Oversight)

SUBJECT: (U//FOUO) Report to the Intelligence Oversight Board on NSA Activities - INFORMATION MEMORANDUM

(U//FOUO) Except as previously reported to you or the President, or otherwise stated in the enclosure, we have no reason to believe that intelligence activities of the National Security Agency during the quarter ending 30 September 2010 were unlawful or contrary to Executive Order or Presidential Directive and thus should have been reported pursuant to Section 1.6(c) of Executive Order 12333, as amended.

(U/FOUO) The Inspector General and the General Counsel continue to exercise oversight of Agency activities by inspections, surveys, training, review of directives and guidelines, and advice and counsel. These activities and other data requested by the Board or members of the staff of the Assistant to the Secretary of Defense (Intelligence Oversight) are described in the enclosure.

GEORGE ELLARD

Inspector General

(b)(3)-P.L. 86-36

MATTHEW G. OLSEN
General Counsel

(U//FOUO) I concur in the report of the Inspector General and the General Counsel and hereby make it our combined report.

General, U. S. Army Director, NSA/Chief, CSS

Encl:

Quarterly Report

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Approved for Release by NSA on 12-19-2014, FOIA Case # 70809 (Litigation)

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I. (U) Intelligence, Counterintelligence, and Intelligence-Related Activities that Violate Law, Regulation, or Policy and Were Substantiated during the Quarter, as

well as Actions Taken as a Result of the Violations
A. (U) Intelligence Activities under Executive Order (E.O.) 12333 Authority
(U) Unintentional Collection against U.S. Persons or Foreign Persons in the United States
(S//REL TO USA, FVEY) In this quarter, there were instances in which Signals Intelligence (SIGINT) analysts inadvertently targeted or collected communications to, from, or about U.S. persons while pursuing foreign intelligence tasking. All intercepts and reports have been deleted or destroyed as required by United States SIGINT Directive (USSID) SP0018. (b) (1) (b) (3) -P.L. 86-36 (TS//SI//REL TO USA, FVEY) an NSA analyst discovered that a telephone
selector for a valid foreign intelligence target remained tasked while the target was in the United States. The tasking error occurred because information that the target the United States on was not properly communicated. The selector was detasked on There was no collection between The target departed the United States on
(TS//SI//REL TO USA, FVEY) an NSA analyst discovered that a selector for a valid foreign intelligence target remained tasked while the target was in the United States. The tasking error occurred because the analyst overlooked the target's selector on a list of selectors to be detasked. There was no collection from the period of the visit.
NSA analysts discovered that they had tasked telephone selectors associated with U.S. persons. The tasking errors occurred because information identifying that the selectors were associated with U.S. persons was not included in the source information when the selectors were tasked. All collection was deleted, and no reports were issued. (b) (1) (b) (3) -P.L. 86-3 (TS//SI//REL TO USA, FVEY) an NSA analyst discovered that an e-mail selector for a valid foreign intelligence target remained tasked while the target was in the United States. Although the analyst the United States on the tasking error occurred because the analyst erroneously believed that the selector would be detasked by another team. The selector was detasked All collection was deleted, and no reports were issued.
(TS//SI//NF) an NSA analyst discovered that telephone selectors for a valid foreign intelligence target (tasked under E.O. 12333) remained tasked while the target was

Derived From: NSA/CSSM 1-52

Dated: 20070108 Declassify On: 20320108

TOP SECRET//COMINT//NOFORN	(b) (3)-P.L. 86-36 (b) (3)-18 USC 798 (b) (3)-50 USC 3024(i)
in the United States from The tasking error occurr overlooked	red because the analyst
	· · ·
No collection resulted from the tasking. Because the disc	overv was made after
the target departed the United States, the target's selectors were not detask	
(S//REL TO USA, FVEY) NSA analysts d selectors for valid foreign intelligence targets remained tasked while the target United States. The tasking errors occurred because reviewed on a regular basis. Because the discoveries were made after the	rgets were in the was not being
United States, the targets' selectors were not detasked. (b) (1) (b) (3)-P.L. 86 2. (U) Database Queries	(b) (1) (b) (3)-P.L. 86-36 (b)(3)-50 USC 3024(i)
(S//REL TO USA, FVEY) On occasions, analysts performed overly broconstructed database queries that potentially targeted U.S. persons. For experimental produced imprecise results. On of those occasions, the query results were deleted, and no reports were issued to the following incidents.	pad or poorly cample, these queries ueries returned results
f (S//SI//REL TO USA, FVEY) a SIGINT an traffic database using telephone selectors associated with a valid for target when the target was known to be in the United States. The at the incident on to an auditor, who also noticed the quideleted, and no reports were issued. f (S//REL TO USA, FVEY) On occasions between NSA analysts queried raw traffic databases using selectors associated The analysts neglected to perform the required research on the selection of the queries. All results were deleted.	ed with U.S. persons
f (S//SI//REL TO USA, FVEY) a SIGINT analyst database with telephone selectors associated with a valid foreign in dates during which the target was in the United States. After submanalyst recalled that the target had been in the United States during submitted. All results were deleted, and no reports were issued.	itting the query, the
f (S//SI//REL TO USA, FVEY) continued to query a raw traffic database using selectors associated intelligence target known by the analyst to be in the United States of analyst misunderstood the procedures for querying selectors in a rather than the queries did not return any results.	during this period. The
f (S//SI//REL TO USA, FVEY) an NSA analyst di while that target was in the United Sta an NSA analyst received information	
	detasked
	(b) (1)
	(b) (1) (b) (3)-P.L. 86-36

(b) (1)

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	the selectors the United States. The analyst
	failed to the United States. As
	a result, traffic continued to be retrieved during this period. The analyst deleted all
	results from the queries once the error was discovered No reports were
1(1)	issued.
711111	86-36 TO
	(15//5l//REL 10 USA, FVEY) INSA analysts initiated
	queries in a raw traffic database using e-mail selectors associated with the same valid
\	foreign intelligence target without realizing that the target was in the United States as of
	The error occurred because the target's travel to the United States was not
	properly communicated within the analyst's office. All results from the queries were
	deleted on and no reports were issued.
//	
//	f (TS//SI//REL TO USA, FVEY) an NSA analyst queried raw
//	traffic databases using telephone selectors associated with a valid foreign intelligence
/	target that had been detasked because of the target's arrival in the United States on
	The error occurred because the target's arrival was not properly
	communicated within the office. All results were deleted, and no reports were issued.
	f - TOUGH TOUGA EVEN AND A malest Cital C
	f (TS//SI//REL TO USA, FVEY) An NSA analyst failed to in a
	raw traffic database for telephone selectors associated with valid foreign intelligence
	targets who were in the United States between
	The form deposition according for towns on the deposition and all regular
	before departing overseas for temporary duty. The queries and all results
	were deleted and no reports were issued.
	3. (U) Dissemination of U.S. Identities
	2. (a) Diocentification of c.c. Identification
	TS//SI//REL_USA, FVEY) The NSA Enterprise issued SIGINT product reports during
	his quarter. In those reports, SIGINT analysts disseminated communications to, from, or about
	J.S. persons or entities on occasions while pursuing foreign intelligence tasking. In a
	otal of SIGINT products, such disseminations were found to be improper and the reports
	were canceled as NSA analysts learned of U.S. persons, organizations,
	or entities named without authorization. All data in the canceled reports was deleted as required,
	and the reports were not reissued or were reissued with proper minimization.
	C. (U) The Foreign Intelligence Surveillance Act (FISA)
	(b) (1)
	I. (U) NSA/CSS Title I FISA (b) (3) -P.L. 86-36
	(I) Tacking Free
	a. (U) Tasking Error
	(TS//SI//NF) On an NSA analyst discovered that selector
	nuthorized for tasking and collection under an NSA Foreign Intelligence Surveillance Court
	FISC) Order was
	originally believed. The telephone selector was included in NSA's FISA application in error.

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(b)(1) (b)(3)-P.L. 8	issued.	was detasked on	All co	llection was purged, a	nd no reports were	
(6)(5)-1 .L. (-50-50 (TS//SI//NE)					
	(IS//SI//III)					
	(TS//SI//NF)		-	-	ecting against a	
			pursuant to an NSA	FISC Order, NSA tar	geted, without	
	authorization, All collection		and no reports were	ssued./		
	(TS//SI//NF)		an NSA anal	yst discovered that		7
			ntelligence target in the because an NSA FIS	e United States were to C Order, which was re		_
	auth	The state of the s		d. The previous order	allowed collection and	
	tasking of		ot all members of the	,	could be proved to be	_
	Ļ	L A 11	authorized under	A STATE OF THE STA	were detasked	
		All queries	and results were dele	ted, and no reports we	re issued.	_
	2. (U) FISA	Amendments /	Act (FAA) (b) (1)		(b) (1) (b) (3)-P.L.	86-36
	a. (U) Section	on 702	(b) (3)	-P.L. 86-36 -50 USC 3024(i)	(5) (5)-1.11.	00-30
	i. (U) Unauth	orized Targeti	ng			
	task a selector		/	The selector was deta	outdated information to asked on	1
	(S//REL-TO U	USA, FVEY) O		A analyst used outdate	ed foreignness and the selector was	
	NSA are tasked while trevealing the	nalysts discovere the targets were targets' travel to	in the United States.	alid foreign intelligence The errors occurred be as not reviewed. A pure	ecause information	

(b) (1)

NSA discovered that an individual

A purge request is pending for

(b)(3)-P.L. 86-36

believed to be a valid foreign intelligence target was a U.S. person. The error occurred because information revealing the target's U.S. citizenship was not reviewed. ____e-mail selectors

-(TS//SI//REL TO USA, FVEY)

all FAA §702 collection

associated with the target were detasked on

DOCID: 4165213 (b) (1) TOP SECRET//COMINT//NOFORN (b)(3)-P.L. 86-36 (b)(3)-18 USC 798 (b)(3)-50 USC 3024(i) (TS//SI//REL_TO USA, FVEY) an NSA analyst discovered that the selectors associated with a valid foreign intelligence target remained tasked when the target entered the United States on Although the analyst was aware of the target's the United States the analyst incorrectly believed that an NSA FISC Order allowed the target to remain on FAA §702 tasking while the target was in the United States. After realizing the error, the analyst detasked the selectors. A purge request for FAA §702 collection and no reports were issued. (b) (1) ii. (U) Database Queries (b)(3)-P.L. 86-36 (TS//SI//NF) an NSA analyst performed queries on a selector associated with a U.S. person raw traffic database, containing FAA §702-derived data. The analyst was unaware that the target was a U.S. person previously targeted under §704 and §705b authorization and failed to verify the selector before querying. The analyst deleted the query and results on (b) (3) - P.L. 86 - 36(b) (3) - 50 USC 3024(i)iii. (U) Tasking Error (TS//SI//REL_TO USA, FVEY) NSA analysts discovered that the selectors for valid foreign intelligence targets had been dual routed to an Intelligence Community customer under the incorrect FAA §702 certification. The selectors were detasked, and a purge request is pending for all data collected under the incorrect certification. iv. (U) Detasking Delays (TS//SI//REL-TO USA, FVEY) NSA analysts discovered that, as a result of a system tasking problem, collection against an FAA §702-authorized target continued the cause of the system tasking problem was after the selector was detasked. On identified and corrected. The problem affected other selectors. All selectors have been properly detasked. All FAA §702 collection associated with this problem has been marked

for deletion. (b) (1) (b)(3)-P.L. 86-36 (TS//SI//REL TO USA; FVEY) NSA attempted to detask [mail selectors associated with a valid foreign intelligence target; however, detasking was unsuccessful and collection continued for additional days. NSA has submitted a destruction waiver to retain specific traffic from one of the selectors. A purge request is pending for all other FAA §702 collection No reports based on data collected while the target was in the United States were issued. NSA discovered that as a result of a the selectors for FAA §702-authorized targets to FAA certification were not fully detasked during the transition from FAA certification After the error was corrected, detasking was completed on (b)(1)(b) (1) (b)(3)-P.L. 86-36 (b) (3) - P.L. 86 - 36(b)(3)-50 USC 3024(i) TOP SECRET//COMINT//NOFORN 5

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-(TS//SI//REL TO USA, FVEY)		collection con	tinued on a selector	r tasked
for a valid foreign intelligence ta	rget while that target w	as in the Unite	d States on	
NSA analysts overlooked		·	·	
for the selector. A	purge request is pendin	ng for all FAA	§702 collection fro	m

b. (U) Section 705b				
i. (U) Detasking Delays			(b) (1) (b) (3) -	P.L. 86-36
(TS//SI//REL TO USA, FVEY)	On	SA analysts di	scovered that the se	electors
for an FAA §705b-authorized tar	**************************************	•	/ _	
a management	<u> </u>		/ 	
The selecto	rs were detasked or		There was no colle	ection.
			(b) (1)	
D. (U) Other				-P.L. 86-36
1. (U) Unauthorized Access			(8) (3) -	-50 USC 3024(i)
(11/150110) 0		I NICA C		(b)(2) D1 96 26
(U// FOUO) On [information in e-mails to NSA ar	andrigta mot alapsed for I		led FISA-derived	(b)(3)-P.L. 86-36
		risa access. C	pon-discovery of a	ne
error, the e-mails were recalled a	na defeted.			
(U// FOUO) On	NSA determined that	ut an NSA ctaff	officer did not have	Α.
authorized access to FISA data fi		u ali insia stali	Although the staff	:
had the required FISA access in		Jacces	s ha <u>d not been rest</u>	:
the current job. The staff officer				<u>51 Ca 101</u>
the current job. The start officer	was subsequently appr	oved for acces	5 011	
(S//REL-TO-USA, FVEY)	NS.	A discovered tl	nat	analyst
was accessing raw SIGINT database			facility.	untilly St
NSA/CSS reminded the			databases is grante	ed only
to personnel, missions, and facili			databases is graine	d only
to personner, missions, und ruem	ties approved for deces	• • • • • • • • • • • • • • • • • • • •		
%)/1)			(b) (1)	
(b)(1) (b)(3)-P.L. 86-36			(b) (3) -P.L. 8 (b) (3) -50 USC	
			(B) (3) -30 OSC	, 3024(1)
2. (U) Data-Handling Errors				
(TS//SI//NF) a	n NSA analyst discover	red FISA infor	mation collected un	nder an
NSA FISC Order			\	The
data was purged on	The analys	st who received	notice of the incid	ent and
requests to purge the data was or			, and a second s	
returned in		-	\	
	·	_		
-(TS//SI//REL-TO-USA, FVEY)-	On	NSA analysts	forwarded to a	

TOP SECRET//COMINT//NOFORN (b) (3) - 50 USC 3024(i)analyst FAA §702-authorized traffic that included an unminimized reference to a U.S. person's identity. NSA requested that the traffic be purged from its databases, and analyst confirmed that this had occurred. NSA re-forwarded the properly minimized traffic to the 3. (U) Consensual and Other Collection (b)(1)(b) (3) -P.L. 86-36 (TS//SI//REL-TO USA, FVEY) an NSA analyst queried a raw traffic database using a U.S. person's telephone selector outside the DIRNSA-authorized period to query and task the selector. DIRNSA had authorized collection on telephone selectors associated with U.S. hostages. The authorization allowed tasking and querying on the selectors from forward but not before. an NSA analyst queried one of the telephone selectors using a date range No reports based on The analyst deleted the query and the results the query results were issued. (S//NF) an NSA analyst discovered that a consensual collection had expired. The selector remained tasked on agreement from The selector was detasked and there was no collection. (b)(1)4. (U) Unauthorized Collection of COMSEC Monitoring Data (b)(3)-P.L. 86-36 (b)(3)-P.L. 86-36 (U//FOUO) On NSA/CSS analysts discovered that a system problem allowed outside of the authorized technical data provided by collection on the customer. An upgrade to software during is believed to have caused the system to The problem was fixed on All unauthorized collection will be removed. (U//FOUO) On NSA analysts discovered that a system problem allowed beyond the authorized period to monitor. All unauthorized collection collection on was deleted. A manual fix to prevent the problem from recurring was put in place. 5. (U) Computer Network Exploitation (CNE) (TS//SI//NF) (TS//SI//NF)

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(b) (3) - P.L. 86 - 36

(b)(3)-18 USC 798

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-(TS//SI//NF)		
(TS//SI//NF)		
(TS//SI//NF)		\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
E. (U) Counterintellige	ence Activities	_
(U) Nothing to report.		(b) (1) (b) (3)-P.L. 86-36
F. (U) Intelligence-Re	lated Activities	(b)(3)-50 USC 3024(i)
	e risk of unauthorized telephony collecti gives analysts greater and faster insight i	
		When collection did occur, data
was purged from NSA's	principal raw traffic repositories when r	
<u>(S//SI//NF)</u>	-	USC 3024(i)
NIC A an alcost	found of their colors of	
NSA analysts		Then collection occurred, it was
purged/from NSA/CSS's	principal raw traffic repositories when	required.
(b) (1) (b) (3)-P.L. 86-36	5	

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	TOP SECRET//COMINT//NOFORN (b) (3) -P.L. 86-36
	(U// FOUO) Although not violations of E.O. 12333 and related directives, NSA/CSS reports instances in which database access was not terminated when access was no longer required. Once identified, the accesses were terminated. In addition, there were instances of unauthorized access to raw SIGINT during the quarter.
_	(TS//SI//REL-TO USA, FVEY)
	5-36 798 3024(i)
	II. (U) NSA/CSS Office of the Inspector General (OIG) Intelligence Oversight (IO) Inspections, Investigations, and Special Studies
	(U// FOUO) During this quarter, the OIG reviewed various intelligence activities of NSA/CSS to determine whether they had been conducted in accordance with statutes, Executive Orders, Attorney General procedures, and Department of Defense (DoD) and internal directives. With few exceptions, the problems uncovered were routine and showed that operating elements understand the restrictions on NSA/CSS activities.
	A. (U) Cryptologic Support Group (CSG)
	(U//FOUO) CSG had no documented procedures for accomplishing IO training of SIGINT personnel and for completing IO quarterly reporting. While the CSG Chief was designated as the IO Officer (IOO), no alternate IOO was designated. During the CSG Chief's extended absence, the site had no official IO point of contact. An alternate IOO, who was designated before the inspection began, is drafting standard operating procedures for IO training and for incident and quarterly reporting.
	B. (U) (b)(3)-P.L. 86-36
	(U//FOUO) The HO program has improved significantly since the 2007 inspection. The IO Program Manager (PM), now a full-time employee, has been in the position for four years, providing continuity for the site's IO program. The site's IO processes and procedures have been shared as a best practice with IO PMs throughout the extended enterprise. To assist in handling increased oversight responsibilities, the IO PM delegated certain IO functions to experienced personnel in key mission areas where there is risk for exposure to U.S. person information. Despite the delegation of functions, the IO PM does not have an officially designated alternate, creating a single point of failure. This was noted as a program weakness in previous inspections in 2004 and 2007. The OIG will track corrective actions.
	C. (U) Misuse of the U.S. SIGINT System

(U) Nothing to report.

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	D. (U) Congressional and Intelligence Oversight Board Notifications (b) (3)-P.L. 86-36
.L.	86-36 (TS//SI//NF) NSA/CSS provided an update to the Congressional intelligence committees on the continuing efforts to improve and refine its data purging process.
	these problems. This matter was reported to the FISC A copy of the notification is enclosed. NSA is working on immediate and long-term solutions to A copy of the (b)(3)-P.L. 86-36
	(S//REL TO USA, FVEY) NSA notified the Congressional intelligence committees about unauthorized disclosures of classified NSA-related information
	notified the committees about the unauthorized disclosure of classified information on A final security review has not been completed by all affected agencies. A copy of the notification is enclosed. (b) (1) (b) (3) -P.L. 86-36 E. (U) Other Notifications
	(S//NF) NSA has notified the Attorney General ofintelligence-related collection activities for U.S. person hostage cases.
	III. (U) Substantive Changes to the NSA/CSS IO Program
	(U) Nothing to report.
	IV. (U) Changes to NSA/CSS Published Directives or Policies Concerning Intelligence, Counterintelligence, or Intelligence-Related Activities and the Reason for the Changes
	(U) Nothing to report.
	V. (U) Procedures Governing the Activities of DoD Intelligence Components that Affect U.S. Persons (DoD Directive 5240.1-R, Procedure 15) Inquiries or Matters Related to IO Programs
	(U) Nothing to report.